

	Effective Date:		09-12-2011
	Policy #:		H-05
	Supersedes:		
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PURPOSE

To permit individual requests for amendment(s) to protected information.

POLICY

Mental Health Treatment Records - Inserting Information in the Treatment Records by Recipients, Guardians, or Parents of a Minor Recipient

The state hospitals and centers are legally obligated to allow recipients, their guardians, or parents of a minor, after having gained access to the treatment records, to appropriately enter challenges to the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. These persons will be given the opportunity to correct or amend the information at issue. These corrections/amendments shall become part of the recipient's treatment record.

Non-Mental Health Records

Individuals (or their legally authorized representatives) may request to amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.

LARA may deny an individual's request for amendment, if the protected health information or record that is the subject of the request:

- a) Was not created by LARA unless the individual provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
- b) Is not part of the designated record set;
- c) Is not available for inspection by the individual pursuant to Individual access rights;
- d) Is accurate and complete.

Individuals requesting an amendment to their protected health information must provide a reason to support a requested amendment.

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PROCEDURE

Responsibility	Action
Amendment Request-Mental Health Records	<p>Inserting Information in the individual's record by Recipients, Guardians, or Parents of a Minor Recipient.</p> <ol style="list-style-type: none"> All Staff is responsible to assure recipients, their guardians, or the parents of recipients who are minors, be allowed to enter challenges to the recipient's treatment record. All staff is responsible to assure that anything written into the treatment record of a recipient is by the recipient's guardians, or the parent of a minor recipient in accordance with guidelines set forth in this procedure. Staff will arrange a reasonable period of time (Monday - Friday, 9:00 am-5:00 pm) for statements to be placed in the recipient's treatment record. Recipients, their guardians, or the parents of recipients who are minors will not be permitted to place comments in, delete, mar, or otherwise deface other sections of the treatment record. Staff will not be permitted to place comments on, delete, mar, or otherwise deface the Recipient Guardian comments of the treatment record. Designated staff will review comments before filing into treatment record. The designated clinical staff will note the date of

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	<p>insertion into the Progress Notes.</p> <p>g. Requests for amendments and related documentation must be maintained for a minimum of six (6) years.</p>
Request – Non-Mental Health Records	<ol style="list-style-type: none"> 1) Individuals must request amendments to their protected health information in writing. Individuals making a request for an amendment by telephone or e-mail should be forwarded a copy of the form. Verification of the requester's identity must be obtained prior to considering the amendment request. The request form must be maintained for a minimum of six (6) years. 2) LARA employees that receive a request for an amendment can provide the individual with instructions on how to prepare the written request. All amendment requests should be immediately forwarded to the privacy officer. The request will be processed and coordinated with any other impacted components designated by the individual. 3) LARA will designate an individual or individuals who will be responsible for processing a particular amendment request. The specific component responsible for recording the protected health information or originating the record must be consulted, if possible prior to making an amendment decision and should sign the amendment form. 4) LARA must act on the individual's request, no later than Sixty (60) days after receipt of a request, as set forth below:

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	<p>a. Accepting the Amendment. If LARA accepts the requested amendment, in whole or in part, LARA must:</p> <ul style="list-style-type: none"> i. Make the appropriate amendment by identifying the records in the designated record set that are affected by the amendment and appending the amendment to such record; ii. Inform the individual, in writing, that the amendment is accepted by sending the individual a copy of the form DCH 1229 with the acceptance noted; iii. Obtain the individual's identification of and agreement to have LARA notify the relevant persons with whom the amendment needs to be shared, and make reasonable efforts to inform and provide the amendment within a reasonable time to persons identified by the individual as having received protected health information about the individual and needing the amendment; and persons including business associates, that LARA knows have the protected health information that is the subject of the amendment and that may have relied, or could potentially rely on such information to the detriment of the individual. <p>b. Denying the Amendment. If LARA denies the requested amendment, in whole or in part, LARA must:</p> <ul style="list-style-type: none"> i. Inform the individual in writing that the amendment is denied by sending the individual a copy of the denial. When the agency denies a request to amend PHI the notice must:
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	<p>A. Be on time (within the 60 days or the 30 day extension).</p> <p>B. Be in plain language.</p> <p>C. Contain the basis for the denial.</p> <p>D. Contain a statement regarding the individual's right to submit a statement disagreeing with the denial and directions as to how the individual may file the statement of disagreement.</p> <p>E. Contain a statement that the individual may request that the denial and the individual's statement of disagreement be included in any future disclosures of the individual's PHI. Contain a statement and directions for the individual to complain, or give the name, title, phone number, address of designate agency person who receives complaints.</p> <p>Note: The agency can deny a request to amend PHI when:</p> <ul style="list-style-type: none"> • PHI was not created by the agency. • PHI is information not included in our DRS. • The PHI is not available for inspection under 164.524(a) {2} or (3) (when access is denied whether reviewable or not). • PHI is accurate and complete. <p>ii. Permit the individual to submit to the covered entity a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement;</p> <p>iii. Identify, as appropriate, the record or protected health information in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, LARA's</p>
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	<p>denial of the request, the individual's statement of disagreement, if any, and LARA's rebuttal, if any, to the designated record set. LARA may, but is not required to, prepare a written rebuttal to the individual's statement of disagreement. If a rebuttal statement is prepared, a copy of it must be provided to the individual who submitted the statement of disagreement.</p> <p>5) If a statement of disagreement has been submitted by the individual, LARA must include the material set forth in subsection (iii) of the preceding paragraph, or, at the election of LARA, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement related.</p> <p>6) If the individual has not submitted a written statement of disagreement, LARA must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action.</p> <p>7) If LARA is informed by another covered entity of an amendment to an individual's protected health information, LARA must amend the protected health information in designated record sets.</p> <p>8) Requests for amendments, and documentation of the response to such requests, must be maintained for a minimum of six (6) years and recorded on the Beneficiary and Provider Contact Tracking system or facility alternative.</p>
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 LARA LICENSING AND REGULATORY AFFAIRS CUSTOMER DRIVEN. BUSINESS MINDED.	Effective Date:		09-12-2011
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**When other applicable privacy or confidentiality laws conflict with HIPAA, comply with the law that provides the individual with greater privacy protection or rights. (Examples of state and federal laws are: Medicaid, Substance Abuse, Public Health Code, HIV/AIDS/STDs, and Mental Health Code).*

REFERENCES

[45 CFR §164.524, §164.526, §164.530](#)
[MCL 330.1749](#)